

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4058 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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S.B.RAI

Versus

STATE OF GUJARAT

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Appearance:

MR AK KOGZE for Petitioner

None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/08/97

ORAL JUDGMENT

1. Heard learned counsel for the petitioner.

2. The petitioner, a Police Sub Inspector of the Police Department of the Government of Gujarat, filed this Special Civil Application and prayed for direction to the respondents No.1 and 2 to place him above respondent No.3 in the seniority list of Police

Inspectors (PIs) and to give him all further consequential benefits arising therefrom inclusive of promotion on the post of PI from the year 1976 or from 23.4.79 when respondent No.3 has been promoted as PI.

3. In the select list prepared in the year 1976, name of petitioner was there at Sr.No.2. The learned counsel for the petitioner admits that out of that select list only one person Shri N.R.Parmar was given promotion who is admittedly senior than petitioner. The next select list was prepared in the year 1979 but grievance of the petitioner is that juniors were given promotion inclusive of respondent No.3 and he was not given promotion. However, it is not in dispute that the petitioner has been promoted subsequently to the post of PI in the year 1980.

4. The claim of the petitioner for promotion from the year 1976 is wholly untenable as no person junior to him has been given promotion to the post of PI. So far as the claim of petitioner for promotion from 23rd April 1979 is concerned, it is suffice to say that the base of the same is on the ground of criteria being of seniority cum merit, but the decision on which reliance has been placed in support of this claim has been reversed by Hon'ble Division bench and it has been held that the criteria of promotion to the post of PI is of proved merits and efficiency. If that is the criteria, then naturally the promotions given to the persons junior than petitioner may not be illegal and arbitrary. Even if the petitioner has average service record then too only on the basis of seniority, he may not have a claim of promotion where the criteria for the same is of proved merit and efficiency. It is not the case of petitioner that in the year 1979, his case was not considered for promotion. Right of consideration is only the fundamental right and not the right of promotion.

5. The net result of the aforesaid discussion is that none of the legal and fundamental rights of the petitioner are being infringed. The prayer made by petitioner in this Special Civil Application deserves no acceptance. The Special Civil Application fails and the same is dismissed. Notice discharged. No order as to costs.

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